

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 MICHAEL ANTHONY ABELS,

12 Plaintiff,

13 v.

14 KRISTEN SKIPWORTH *et al.*,

15 Defendants.

CASE NO. C09-5572RBL/JRC

ORDER TO SHOW CAUSE

16 The Court has reviewed plaintiff's application to proceed in forma pauperis and the
17 proposed complaint. In the proposed complaint plaintiff states he has only filed one prior case.
18 Review of court documents shows plaintiff has previously filed eight other actions in this
19 district. Those actions are:
20

- 21 1. Abels v. Washington State, 90-cv-1655JCC
22 2. Abels *et al.* v. Grey *et al.*, 98-cv-1618BJR
23 3. Abels v. ISRB *et al.*, 04-cv-2259JLR
24 4. Abels v. Clarke *et al.*, 07-cv-5303RBL
25 5. Abels v. Van Boening, 08-cv-0764JCC
26 6. Abels v. Van Boening, 08-cv-1118RAJ

1 7. Abels v. Sinclair *et al.*, 09-cv-0539RSL/JPD

2 8. Abels v. Sinclair, 09-cv-0656TSZ/JPD

3 A district court has wide discretion in deciding whether to grant an inmate the privilege
4 of proceeding *in forma pauperis*. O'Loughlin v. John Doe, 920 F2d. 614 (9th Cir. 1990). Here,
5 Plaintiff's lack of candor in and of itself can be considered as grounds for denial of *in forma*
6 *pauperis* status.

7
8 In deciding whether to grant or deny the privilege one of the items a court may consider
9 is an inmate's prior filings. O'Loughlin v. John Doe, 920 F2d. 614 (9th Cir. 1990). Mr. Abels
10 has filed six habeas corpus petitions. These petitions have been addressed on the merits in some
11 instances, but are now routinely being dismissed as second or successive petitions. One petition,
12 Abels v. Sinclair, 09-cv-0539RSL is currently pending.

13
14 Plaintiff has filed two prior civil rights actions. The first action, Abels et al v. Grey et al,
15 98-cv-1618BJR, is of no concern to the court. The second action, Abels v. Clarke, 07-cv-
16 5303RBL, was dismissed June 8, 2009. The appeal was dismissed August 21, 2009. The
17 allegations in Abels v. Clarke, evolved over the course of the litigation. Ultimately, the sole
18 remaining issue was whether plaintiff was returned to prison from work release in retaliation for
19 other complaints he filed, or because of a complaint by a citizen that plaintiff was harassing her
20 and she felt concerned for her safety (Able v. Clarke, 07-cv-5303RBL Dkt. # 135).

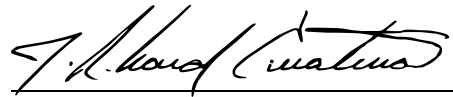
21
22 This return to prison in 2007 is the central issue in the action plaintiff is attempting to file
23 today. Thus, it appears plaintiff has litigated and lost the issue he is attempting to litigate today.

24 Plaintiff is now ORDERED TO SHOW CAUSE why this court should not recommend
25 the motion for *in forma pauperis* be denied for his failure to inform the court of his prior filings
26

1 and because the issue he is attempting to litigate has already been decided adversely to his
2 position.

3 A response from plaintiff will be due on or before **October 23, 2009**. Failure to file a
4 response, or an inadequate response, will result in a Report and Recommendation that *in forma*
5 *pauperis* status be denied.

6 DATED this 28th day of September, 2009.
7

8
9 

10 J. Richard Creatura
11 United States Magistrate Judge
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26